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Attorneys for Plaintiffs

JUDGE CROTTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

07 CIV 5512

-----X
THE CHILDREN'S PLACE RETAIL STORES, :
INC. and THE CHILDREN'S PLACE :
SERVICES COMPANY, LLC :

Case No. _____

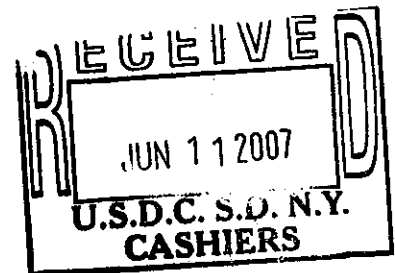
Plaintiffs, :

v. :

COMPLAINT

THE FAMILY PLACE, LTD., LOT STORES, :
INC., BURNSIDE AVENUE LOT STORES, :
INC., CASTLE HILL LOT STORES, INC., and :
MAMARONECK AVENUE LOT STORES, :
INC. :

Defendants. :
-----X



Plaintiffs The Children's Place Retail Stores, Inc. ("The Children's Place Retail Stores")
and The Children's Place Services Company, LLC ("The Children's Place Services Company")
(collectively "The Children's Place" or "plaintiffs"), by their undersigned attorneys, Fross
Zelnick Lehrman & Zissu, P.C., for their Complaint against defendants The Family Place, Ltd.,
Lot Stores, Inc., Burnside Avenue Lot Stores, Inc., Castle Hill Lot Stores, Inc., and Mamaroneck
Avenue Lot Stores, Inc. (collectively "defendants"), allege as follows:

NATURE OF THE ACTION

1. In a clear attempt to trade on the good will of THE CHILDREN'S PLACE trademarks, defendants have not only adopted the confusingly similar mark, THE FAMILY PLACE, but also have adopted a nearly identical logo. To protect the goodwill plaintiffs have established in THE CHILDREN'S PLACE and related marks, they bring this action for trademark infringement and unfair competition under Sections 32(1) and 43(a) of the Lanham Act, and related claims under New York State law. Plaintiffs seek an injunction, an accounting of defendants' profits flowing from their use of THE FAMILY PLACE mark and logo, damages, attorneys' fees and such other relief as the Court deems just and proper.

THE PARTIES

2. Plaintiff The Children's Place Services Company is a Delaware Limited Liability Company located and doing business at 915 Secaucus Road, Secaucus, New Jersey 07094. The Children's Place Services Company is the owner of several incontestable federal trademark registrations for the marks THE CHILDREN'S PLACE and BABY PLACE as well as a federal registration for SHOE PLACE.

3. Plaintiff The Children's Place Retail Stores, Inc. is a Delaware corporation with offices at 915 Secaucus Road, Secaucus, New Jersey 07094. The company operates more than 875 "The Children's Place" retail stores across the country, including several in New York, Bronx and Westchester counties of New York State.

4. Upon information and belief, defendant The Family Place, Ltd. is a corporation organized and existing under the laws of New Jersey with an office at 1250 South River Road,

Cranbury, New Jersey 08512. The Family Place, Ltd. applied for trademark registrations of THE FAMILY PLACE mark with the United States Patent and Trademark Office.

5. Upon information and belief, defendant Lot Stores, Inc. is a corporation organized and existing under the laws of New Jersey with an office at 1250 South River Road, Cranbury, New Jersey 08512 that operates Lot Stores in several states, including in New York, Bronx, and Westchester Counties of New York State. Plaintiffs believe that Lot Stores Inc. operates several stores under THE FAMILY PLACE mark.

6. Upon information and belief, defendant Burnside Avenue Lot Stores, Inc. operates two Lot Stores known as The Family Place. The stores are believed to be located at 18 East Burnside Avenue, Bronx, NY 10453 and at 581 East 138 Street, Bronx, NY 10454. Burnside Avenue Lot Stores, Inc. is a corporation organized and doing business in New York.

7. Upon information and belief, defendant Castle Hill Lot Stores, Inc. operates a Lot Store known as The Family Place at 1301-1317 Castle Hill Avenue, Bronx, NY 10562. Castle Hill Lot Stores, Inc. is a corporation organized and doing business in New York.

8. Upon information and belief, defendant Mamaroneck Avenue Lot Stores, Inc. operates a Lot Store known as The Family Place at 120-122 Mamaroneck Avenue, White Plains, NY 10605. Mamaroneck Avenue Lot Stores, Inc. is a corporation organized and doing business in New York.

9. Upon information and belief, the president of The Family Place, Ltd., Haskel Dweck, is the chairman or chief executive officer of all three New York entities.

JURISDICTION AND VENUE

10. The Court has original jurisdiction over the subject matter of this action pursuant to Section 39 of the Lanham Act, 15 U.S.C. § 1121, and under Sections 1331 and 1338(a) and (b) of the Judicial Code, 28 U.S.C. §§ 1331, 1338(a) and (b). The Court has supplemental jurisdiction over plaintiffs' state law claims under Section 1367(a) of the Judicial Code, 28 U.S.C. § 1367(a).

11. Venue in this judicial district is proper pursuant to Sections 1391(b) and (c) of the Judicial Code, 28 U.S.C. § 1391(b) and (c), in that a substantial part of the events giving rise to plaintiffs' claims, including, but not limited to, the actions involving defendants' The Family Place retail outlets, occurred in this district, and in that defendants are subject to personal jurisdiction in New York State and is therefore deemed to reside in New York State.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. Plaintiffs' Well-Known THE CHILDREN'S PLACE and related marks

12. For decades, plaintiffs have used the trade name and house mark THE CHILDREN'S PLACE in connection with retail services. As a leading specialty retailer of children's merchandise, plaintiffs have developed substantial goodwill in THE CHILDREN'S PLACE and related marks.

13. Plaintiffs spend millions of dollars annually advertising and promoting their nationwide chain of retail stores. They conduct extensive direct mail, in-store, and magazine advertising campaigns.

14. As a result of plaintiffs' investment of time, money and effort, THE CHILDREN'S PLACE and related marks have become exclusively associated with plaintiffs and their goods, and represent enormous and valuable goodwill.

15. Plaintiffs own several incontestable federal trademark registrations for THE CHILDREN'S PLACE, including the following:

- Reg. No. 1,020,742, issued September 16, 1975 for THE CHILDREN'S PLACE for "retail store services specializing in children's clothing, children's toys and accessories" in international Class 42, based on first use in commerce since August 1, 1970;
- Reg. No. 1,137,068 issued June 17, 1980 for THE CHILDREN'S PLACE (Stylized) for "retail store services specializing in children's clothing" in International Class 42, based on first use in commerce since August 1, 1970; and
- Reg. No. 2,165,577, issued June 16, 1998 for THE CHILDREN'S PLACE OUTLET (Stylized) for "retail store services featuring children's clothing, shoes, purses, toys, belts, jewelry, stationary, hats, furniture, musical products, videotapes and scarfs" in International Class 35, based on first use in commerce since March 1, 1997.

16. Additionally, plaintiffs own several incontestable registrations for BABY PLACE, including a registration for "retail store services featuring children's clothing and accessories," which is based on a first use in commerce of November 20, 1998. Reg. No. 2,394,007.

17. Plaintiffs also own a federal registration for SHOE PLACE in connection with "[c]hildren's clothing, namely, footwear, sneakers, sandals, shoes, socks." Reg. No. 2,976,471. The mark has been used in connection with clothing for children since 2004 and is well known among consumers.

18. These registrations (collectively "The Children's Place Registrations") are valid, subsisting, in full force and effect, and constitute evidence of plaintiffs' exclusive right to use

THE CHILDREN'S PLACE, BABY PLACE, and SHOE PLACE marks (collectively "The Children's Place Marks") in connection with the goods or services identified therein. Copies of The Children's Place Registrations are attached as Exhibit A.

19. The Children's Place adopted a logo form of THE CHILDREN'S PLACE mark many years ago consisting of the words "THE CHILDREN'S" in small capital block letters, stacked above the word "PLACE" in a larger font

**THE CHILDREN'S
PLACE**

("The Children's Place Logo"). The Children's Place Logo appears on more than 875 "The Children's Place" storefronts nationwide, as well as on plaintiffs' website and in their advertising and promotional materials. The Children's Place Logo also appears on the labels of its clothing. The Children's Place has for many years consistently used a blue and white color scheme for their logo.

B. Defendants' Infringing Activity

20. Defendants have never been associated or affiliated with plaintiffs in any way and plaintiffs have never authorized, licensed or consented to defendants' conduct complained of herein.

21. Long after plaintiffs obtained exclusive rights in THE CHILDREN'S PLACE Marks, defendants adopted the confusingly similar THE FAMILY PLACE mark for similar services. Plaintiff The Children's Place Services Company is currently involved in a dispute before the Trademark Trial and Appeals Board of the United States Patent and Trademark Office concerning defendant The Family Place, Ltd.'s attempt to obtain trademark registrations for THE FAMILY PLACE. Serial Nos. 76/648,956, 76/662,769.

22. Upon information and belief, defendants are operating several Lot Stores retail outlets under the name THE FAMILY PLACE. One of these stores, located in Westchester County, displays The Family Place logo – a logo that is nearly identical to that of The Children’s Place Logo – in the storefront. The logo is repeated on several banners within the store, as well as on shopping baskets.



23. Upon information and belief, defendants deliberately copied plaintiffs’ stacked logo to trade on the good will of plaintiffs. But for the substitution of the word “CHILDREN’S” for “FAMILY,” the logo on defendants’ Westchester storefront, signage, and shopping baskets appears identical to plaintiffs’ logo in terms of shape, color and proportion. Defendants’ logo similarly includes small capital blue block letters, stacked and justified above the word “PLACE” in a larger font.

C. Defendants’ Refusal to Stop Using THE FAMILY PLACE Mark

24. To protect THE CHILDREN’S PLACE Marks and the goodwill they represent, and to prevent confusion among consumers as to the origin or affiliation of defendants’ products and services, plaintiffs’ counsel requested that defendants stop using THE FAMILY PLACE mark and logo. Defendants refused to stop using the confusingly similar THE FAMILY PLACE mark and logo.

25. Defendants' use of the mark and logo is likely to falsely suggest an association with or approval by The Children's Place of defendants' stores and is likely to continue to create confusion, as consumers will assume that defendants' goods are authorized by, endorsed by, associated with, or are otherwise connected with The Family Place.

26. Defendants' use of THE FAMILY PLACE mark and logo in connection with retail services is intentionally fraudulent, malicious, willful and wanton.

27. The use by defendants of THE FAMILY PLACE mark and logo unfairly and unlawfully wrests from The Children's Place control over their marks and reputation and is unjustly enriching defendants.

28. Defendants' unauthorized acts as described herein have caused and will continue to cause irreparable damage to plaintiffs' business and goodwill unless restrained by this Court.

29. Plaintiffs have no adequate remedy at law.

FIRST CLAIM FOR RELIEF
TRADEMARK INFRINGEMENT (15 U.S.C. § 1114(1))

30. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 29 above as if fully set forth herein.

31. Defendants' THE FAMILY PLACE mark, when used in connection with retail services, is substantially similar to plaintiffs' THE CHILDREN'S PLACE Marks.

32. Defendants' unauthorized use of THE CHILDREN'S PLACE Marks is likely to cause confusion, cause mistake, or deceive consumers as to the source, sponsorship or approval of defendants' goods and services and, specifically, to cause consumers to believe that defendants' goods and services are sponsored by, affiliated with, approved by or otherwise connected with plaintiffs.

33. Defendants' acts constitute infringement of plaintiffs' federally registered THE CHILDREN'S PLACE Marks, as set forth in The Children's Place Registrations, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

34. Defendants' conduct has caused and is causing immediate and irreparable injury to plaintiffs.

SECOND CLAIM FOR RELIEF
FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a))

35. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 34 above as if fully set forth herein.

36. Defendants' use of THE FAMILY PLACE mark and logo and their conduct complained of herein constitutes a false designation of origin and a false representation as to the origin of defendants' goods and services, is likely to cause confusion, mistake, or deception as to the source of defendants' goods and services, and is likely to create the false impression that the defendants' goods and services are authorized, sponsored, endorsed, licensed by, or affiliated with plaintiffs.

37. Defendants' actions constitute unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

38. Defendants' conduct has caused and is causing immediate and irreparable injury to plaintiff.

THIRD CLAIM FOR RELIEF
UNFAIR COMPETITION UNDER NEW YORK COMMON LAW

39. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 38 above as if fully set forth herein.

40. Defendants' conduct complained of herein is likely to confuse the public as to the origin, source or sponsorship of defendants' goods and services, or to cause mistake or to deceive the public into believing that defendants' goods and services are authorized, sponsored, endorsed, licensed by, or affiliated with plaintiffs, in violation of plaintiffs' rights in THE CHILDREN'S PLACE Marks under New York State common law.

41. Upon information and belief, defendants chose to use THE FAMILY PLACE mark and logo with constructive and/or actual knowledge of plaintiffs' prior use of and rights in THE CHILDREN'S PLACE Marks in connection with retail services. By adopting and using a colorable imitation of the valuable and distinctive THE CHILDREN'S PLACE Marks and logo, defendants have been unjustly enriched and plaintiffs have been damaged.

FOURTH CLAIM FOR RELIEF
VIOLATION OF THE NEW YORK DECEPTIVE AND UNFAIR
TRADE PRACTICES ACT (N.Y. General Business Law § 349)

42. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 41 above as if fully set forth herein.

43. Defendants' use of THE FAMILY PLACE mark has the capacity to deceive and is deceiving the public as to the source of sponsorship of defendants' goods and services. As a result, the public will be damaged.

44. Defendants' conduct is willful and in knowing disregard of plaintiffs' rights.

45. Defendants have been and are engaged in deceptive acts or practices in the conduct of a business, trade or commerce in violation of Section 349 of the New York General Business Law.

46. Defendants' conduct has caused and is causing immediate and irreparable injury to plaintiff.

**FIFTH CLAIM FOR RELIEF
TRADEMARK DILUTION UNDER NEW YORK STATE LAW
(N.Y. General Business Law § 360-1)**

47. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 46 above as if fully set forth herein.

48. Plaintiffs THE CHILDREN'S PLACE Marks are distinctive and acquired their distinctiveness in connection with retail store services before defendants' first use of defendants' infringing THE FAMILY PLACE mark.

49. Defendants' unauthorized use of THE FAMILY PLACE mark, which is confusingly similar to plaintiffs' is diluting and is likely to continue diluting such marks by blurring the distinctiveness thereof, and is likely to injure plaintiffs' business reputation, in that the reputation of plaintiffs' has been removed from their power and control and that deficiencies in or complaints about defendants' goods and services will redound to the harm of plaintiffs, all in violation of Section 360-1 of the General Business Law of the State of New York.

50. Defendants' unauthorized acts as described herein have caused and will continue to cause irreparable damage to plaintiffs' business and goodwill unless enjoined by this Court.

WHEREFORE, plaintiffs The Children's Place Retail Stores and The Children's Place Services Company, respectfully demands judgment as follows:

(1) That an injunction be issued enjoining defendants, any officers, agents, directors, shareholders, principals, licensees, distributors, attorneys, servants, employees, affiliates, subsidiaries and assigns, and all those persons in concert or participation with any of them from:

(a) using The Family Place mark or logo on or in connection with retail services;

- (b) using The Family Place mark in whole or in part, or a phonetic equivalent or misspelling thereof, or any other simulation, reproduction, copy, colorable imitation or confusingly similar variation of THE CHILDREN'S PLACE Marks, in connection with retail services.
- (c) conducting any activities in the United States that relate to, refer to or concern the advertising, promotion, display, sale or offering for sale of goods in any media or format, under THE FAMILY PLACE mark in whole or in part, or is a phonetic equivalent or misspelling thereof, or that is a simulation, reproduction, copy, colorable imitation or confusingly similar variation of any of THE CHILDREN'S PLACE Marks;
- (d) using any false designation of origin or false description (including, without limitation, any letters or symbols), or performing any act, which can, or is likely to, lead members of the trade or public to believe that any goods manufactured, imported, advertised, promoted, distributed, displayed, produced, sold or offered for sale by defendants, or any services advertised, promoted, sold or offered for sale by defendants, are in any manner associated or connected with plaintiffs, or are authorized, licensed, sponsored or otherwise approved by plaintiffs;
- (e) engaging in any other activity constituting unfair competition with plaintiffs, or constituting an infringement of THE CHILDREN'S PLACE Marks;
- (f) applying to register or registering in the United States Patent and Trademark Office or in any state trademark registry any mark consisting in whole or in part of the terms THE FAMILY PLACE or consisting in whole or in part of

any simulation, reproduction, copy or colorable imitation of THE CHILDREN'S PLACE Marks, for retail services, or any goods or services related to the foregoing;

(g) diluting or tarnishing plaintiffs' THE CHILDREN'S PLACE Marks;

(h) incorporating under, doing business under or seeking to trade under any business name that includes the terms The Family Place in the United States;

(i) using any domain name, or metatag that includes in whole or in part the terms "The Family Place" or any formative thereof, including, without limitation, the domain name www.thefamilyplace.com, in connection with a web site that advertises, promotes, markets defendants' retail services, or any goods or services related to the foregoing;

(j) owning, renting, purchasing or otherwise obtaining rights to any internet search term that includes in whole or in part the terms "The Children's Place" or any formative thereof for purposes of directing internet traffic to any web site related to retail services;

(k) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (j) above.

(2) Directing defendants to deliver up to plaintiffs' attorneys for destruction all goods, labels, tags, signs, stationery, receipts, shopping carts and baskets, prints, packages, signage, promotional and marketing materials, advertisements and other materials currently in their possession or under defendants' control, incorporating, featuring or bearing THE FAMILY PLACE marks or any other simulation, reproduction, copy or colorable imitation of THE

CHILDREN'S PLACE Marks or logos in connection with retail services, or any goods or services related to the foregoing.

(3) Directing that defendants file all documents necessary with the United States Patent and Trademark Office to abandon with prejudice defendant The Family Place, Ltd.'s Trademark Applications to register the mark THE FAMILY PLACE, Serial Numbers 76/648,956 and 76/662,769 or, in the alternative, ordering pursuant to 15 U.S.C. § 1119 that the PTO refuse registration of the marks identified in Defendants' Applications.

(4) Directing such other relief as the Court may deem appropriate to prevent the public from deriving the erroneous impression that any product manufactured, imported, advertised, promoted, distributed, displayed, produced, sold or offered for sale, or any service advertised, promoted, sold or offered for sale by defendants is in any manner authorized by plaintiffs or related in any way to plaintiffs.

(5) Directing defendants to file with the Court and serve upon plaintiffs' counsel within thirty (30) days after entry of judgment a report in writing under oath, setting forth in detail the manner and form in which it has complied with the above.

(6) Awarding plaintiffs such damages they have sustained or will sustain by reason of defendants' acts of trademark infringement and unfair competition and that such sums be trebled pursuant to 15 U.S.C. § 1117.

(7) Awarding plaintiffs all gains, profits, property and advantages derived by defendant from defendants' unlawful conduct.

(8) Awarding to plaintiffs exemplary and punitive damages to deter any further willful infringement as the Court finds appropriate.

(9) Awarding to plaintiffs their costs and disbursements incurred in this action, including reasonable attorneys' fees pursuant to 15 U.S.C. §1117(a).

(10) Awarding to plaintiffs interest, including pre-judgment interest on the foregoing sums.

(11) Awarding to plaintiffs such other and further relief as the Court may deem just and proper.

Dated: New York, New York
June 11, 2007

Respectfully submitted,

FROSS ZELNICK LEHRMAN &
ZISSU, P.C.

By: 

Mario Aieta (MA 2228)

Betsy C. Judelson (BJ 1107)

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Attorneys for Plaintiffs

EXHIBIT A



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Typed Drawing

Word Mark	THE CHILDREN'S PLACE
Goods and Services	IC 042. US 100 101. G & S: RETAIL STORE SERVICES SPECIALIZING IN CHILDREN'S CLOTHING, [MATERNITY CLOTHING,] CHILDREN'S [FURNITURE,] TOYS AND ACCESSORIES. FIRST USE: 19690201. FIRST USE IN COMMERCE: 19700801
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	73025302
Filing Date	June 26, 1974
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	1020742
Registration Date	September 16, 1975
Owner	(REGISTRANT) CHILDREN'S PLACE, INC., THE CORPORATION DELAWARE 10 GLORIA LANE FAIRFIELD NEW JERSEY (LAST LISTED OWNER) CHILDREN'S PLACE SERVICES COMPANY, LLC, THE DELAWARE LIMITED LIABILITY COMPANY 915 SECAUCUS ROAD SECAUCUS NEW JERSEY 07094
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	J. ALLISON STRICKLAND
Disclaimer	WITHOUT WAIVING ANY COMMON LAW RIGHTS WITH RESPECT THERETO, APPLICANT HEREBY DISCLAIMS THE WORD "CHILDREN'S APART FROM THE MARK AS A WHOLE.

Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20050609.
Renewal 2ND RENEWAL 20050609
Live/Dead Indicator LIVE

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the children's place

Word Mark	THE CHILDREN'S PLACE
Goods and Services	IC 042. US 101. G & S: RETAIL STORE SERVICES SPECIALIZING IN CHILDREN'S CLOTHING. FIRST USE: 19690201. FIRST USE IN COMMERCE: 19700801
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Design Search Code	
Serial Number	73192163
Filing Date	November 6, 1978
Current Filing Basis	1A
Original Filing Basis	1A
Registration Number	1137068
Registration Date	June 17, 1980
Owner	(REGISTRANT) CHILDREN'S PLACE INC., THE CORPORATION DELAWARE 20 GLORIA LA. FAIRFIELD NEW JERSEY 07006 (LAST LISTED OWNER) CHILDREN'S PLACE SERVICES COMPANY, LLC, THE DELAWARE LIMITED LIABILITY COMPANY 915 SECAUCUS ROAD SECAUCUS NEW JERSEY 07094
Assignment Recorded	ASSIGNMENT RECORDED

Attorney of Record LARRY H TRONCO
Prior Registrations 1020741;1020742
Disclaimer WITHOUT WAIVING ANY COMMON LAW RIGHTS WITH RESPECT THERETO, APPLICANT DISCLAIMS THE WORD "CHILDREN'S" APART FROM THE MARK AS SHOWN.
Type of Mark SERVICE MARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010708.
Renewal 1ST RENEWAL 20010708
Live/Dead Indicator LIVE

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The Children's Place Outlet

Word Mark THE CHILDREN'S PLACE OUTLET

Goods and Services IC 035. US 100 101 102. G & S: retail store services featuring children's clothing, shoes, purses, toys, belts, jewelry, stationary, hats, furniture, musical products, videotapes and scarfs. FIRST USE: 19961001. FIRST USE IN COMMERCE: 19970301

Mark Drawing Code (5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM

Design Search Code

Serial Number 75268941

Filing Date April 3, 1997

Current Filing Basis 1A

Original Filing Basis 1A

Published for Opposition March 24, 1998

Registration Number 2165577

Registration Date June 16, 1998

Owner

(REGISTRANT) Children's Place Retail Stores, Inc., The CORPORATION DELAWARE One Dodge Drive West Caldwell NEW JERSEY 07006

(LAST LISTED OWNER) CHILDREN'S PLACE SERVICES COMPANY, LLC, THE DELAWARE
LIMITED LIABILITY COMPANY 915 SECAUCUS ROAD SECAUSUS NEW JERSEY 07094

**Assignment
Recorded** ASSIGNMENT RECORDED

**Attorney of
Record** J. ALLISON STRICKLAND

**Prior
Registrations** 0005313;0011892;1020741;1020742;1137068;1149504;1467689;1642868;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CHILDREN'S" and "OUTLET" APART
FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

**Live/Dead
Indicator** LIVE

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Typed Drawing

Word Mark	BABY PLACE
Goods and Services	IC 035. US 100 101 102. G & S: Retail Store services featuring children's clothing and accessories. FIRST USE: 19981120. FIRST USE IN COMMERCE: 19981120
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	75510401
Filing Date	June 26, 1998
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	November 9, 1999
Registration Number	2394007
Registration Date	October 10, 2000
Owner	(REGISTRANT) CHILDREN'S PLACE RETAIL STORES, INC., THE CORPORATION DELAWARE One Dodge Drive West Caldwell NEW JERSEY 07006 (LAST LISTED OWNER) CHILDREN'S PLACE SERVICES COMPANY, LLC, THE DELAWARE LIMITED LIABILITY COMPANY 915 SECAUCUS ROAD SECAUCUS NEW JERSEY 07094
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	TAMAR NIV BESSINGER
Prior	1020741;1020742;1137068;1642868;1893655;AND OTHERS

Registrations

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BABY" APART FROM THE MARK AS SHOWN

Type of Mark SERVICE MARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

Live/Dead Indicator LIVE

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TESS was last updated on Thu Jun 7 04:04:21 EDT 2007

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NEXT LIST	FIRST DOC	PREV DOC	NEXT DOC	LAST DOC					

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to record:

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(Use the "Back" button of the Internet

Browser to return to TESS)**Typed Drawing**

Word Mark	SHOE PLACE
Goods and Services	IC 025. US 022 039. G & S: Children's clothing, namely, footwear, sneakers, sandals, shoes, socks. FIRST USE: 20040600. FIRST USE IN COMMERCE: 20040600
Mark Drawing Code	(1) TYPED DRAWING
Design Search Code	
Serial Number	76046687
Filing Date	May 11, 2000
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	April 23, 2002
Registration Number	2976471
Registration Date	July 26, 2005
Owner	(REGISTRANT) CHILDREN'S PLACE SERVICES COMPANY, LLC, THE LTD LIAB CO DELAWARE 915 SECAUCUS ROAD SECAUSUS NEW JERSEY 07094
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	J ALLISON STRICKLAND
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SHOE" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead	

Indicator LIVE

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JUDGE CROTTY

CIVIL COVER SHEET

07 CIV 5512

JS 44C/SDNY

REV. 1/97

WEB 4/99

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

PLAINTIFFS

THE CHILDREN'S PLACE RETAIL STORES, INC. and THE CHILDREN'S PLACE SERVICES COMPANY, LLC.

DEFENDANTS

THE FAMILY PLACE, LTD., LOT STORES, INC., BURNSIDE AVENUE LOT STORES, INC., CASTLE HILL LOT STORES, INC., and MAMARONECK AVENUE LOT STORES, INC.

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Mario Aieta, Esq., Betsy C. Judelson, Esq.

Fross Zelnick Lehrman & Zissu, P.C.
866 U.N. Plaza, NY, NY 10017 (212) 813-5900

ATTORNEYS (IF KNOWN)

Joseph Sutton, Esq.
Ezra Sutton and Associates, P.A.
Plaza 9, 900 Route 9, Woodbridge, NJ 07095 (732) 634-3520

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

This action is for trademark infringement and unfair competition under Sections 32(1) and 43(a) of the Lanham Act, and related claims under New York State law

Has this or a similar case been previously filed in SDNY at any time? No? ☒ Yes? ☐ Judge Previously Assigned ☐

If yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT <input type="checkbox"/> 110 INSURANCE <input type="checkbox"/> 120 MARINE <input type="checkbox"/> 130 MILLER ACT <input type="checkbox"/> 140 NEGOTIABLE INSTRUMENT <input type="checkbox"/> 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT <input type="checkbox"/> 151 MEDICARE ACT <input type="checkbox"/> 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS) <input type="checkbox"/> 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS <input type="checkbox"/> 160 STOCKHOLDERS SUITS <input type="checkbox"/> 190 OTHER CONTRACT <input type="checkbox"/> 195 CONTRACT PRODUCT LIABILITY		TORTS PERSONAL INJURY <input type="checkbox"/> 310 AIRPLANE <input type="checkbox"/> 315 AIRPLANE PRODUCT LIABILITY <input type="checkbox"/> 320 ASSAULT, LIBEL & SLANDER <input type="checkbox"/> 330 FEDERAL EMPLOYERS' LIABILITY <input type="checkbox"/> 340 MARINE <input type="checkbox"/> 345 MARINE PRODUCT LIABILITY <input type="checkbox"/> 350 MOTOR VEHICLE <input type="checkbox"/> 355 MOTOR VEHICLE PRODUCT LIABILITY <input type="checkbox"/> 360 OTHER PERSONAL INJURY PERSONAL INJURY <input type="checkbox"/> 362 PERSONAL INJURY - MED MALPRACTICE <input type="checkbox"/> 365 PERSONAL INJURY PRODUCT LIABILITY <input type="checkbox"/> 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY PERSONAL PROPERTY <input type="checkbox"/> 370 OTHER FRAUD <input type="checkbox"/> 371 TRUTH IN LENDING <input type="checkbox"/> 380 OTHER PERSONAL PROPERTY DAMAGE <input type="checkbox"/> 385 PROPERTY DAMAGE PRODUCT LIABILITY		FORFEITURE/PENALTY <input type="checkbox"/> 610 AGRICULTURE <input type="checkbox"/> 620 FOOD & DRUG <input type="checkbox"/> 625 DRUG RELATED SEIZURE OF PROPERTY <input type="checkbox"/> 630 LIQUOR LAWS <input type="checkbox"/> 640 RR & TRUCK <input type="checkbox"/> 650 AIRLINE REGS <input type="checkbox"/> 660 OCCUPATIONAL SAFETY/HEALTH <input type="checkbox"/> 690 OTHER LABOR <input type="checkbox"/> 710 FAIR LABOR STANDARDS ACT <input type="checkbox"/> 720 LABOR/MGMT RELATIONS <input type="checkbox"/> 730 LABOR/MGMT REPORTING & DISCLOSURE ACT <input type="checkbox"/> 740 RAILWAY LABOR ACT <input type="checkbox"/> 790 OTHER LABOR LITIGATION <input type="checkbox"/> 791 EMPL RET INC SECURITY ACT		BANKRUPTCY <input type="checkbox"/> 422 APPEAL 28 USC 158 <input type="checkbox"/> 423 WITHDRAWAL 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 COPYRIGHTS <input type="checkbox"/> 830 PATENT <input checked="" type="checkbox"/> 840 TRADEMARK SOCIAL SECURITY <input type="checkbox"/> 861 MIA (1395FF) <input type="checkbox"/> 862 BLACK LUNG (923) <input type="checkbox"/> 863 DIWC (405(g)) <input type="checkbox"/> 863 DIWW (405(g)) <input type="checkbox"/> 864 SSID TITLE XVI <input type="checkbox"/> 865 RSI (405(g))		OTHER STATUTES <input type="checkbox"/> 400 STATE REAPPORTIONMENT <input type="checkbox"/> 410 ANTI-TRUST <input type="checkbox"/> 430 BANKS & BANKING <input type="checkbox"/> 450 COMMERCE/ICC RATES/ETC <input type="checkbox"/> 460 DEPORTATION <input type="checkbox"/> 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO) <input type="checkbox"/> 810 SELECTIVE SERVICE <input type="checkbox"/> 850 SECURITIES/COMMODITIES/EXCHANGE <input type="checkbox"/> 875 CUSTOMER CHALLENGE 12 USC 3410 <input type="checkbox"/> 891 AGRICULTURE ACTS <input type="checkbox"/> 892 ECONOMIC STABILIZATION ACT <input type="checkbox"/> 893 ENVIRONMENTAL MATTERS <input type="checkbox"/> 894 ENERGY ALLOCATION ACT <input type="checkbox"/> 895 FREEDOM OF INFORMATION ACT <input type="checkbox"/> 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE <input type="checkbox"/> 950 CONSTITUTIONALITY OF STATE STATUTES <input type="checkbox"/> 890 OTHER STATUTORY ACTIONS	
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ACTIONS UNDER STATUTES

REAL PROPERTY

☐ 210 LAND CONDEMNATION
☐ 220 FORECLOSURE
☐ 230 RENT LEASE & EJECTMENT
☐ 240 TORTS TO LAND
☐ 246 TORT PRODUCT LIABILITY
☐ 290 ALL OTHER REAL PROPERTY

CIVIL RIGHTS

☐ 441 VOTING
☐ 442 EMPLOYMENT
☐ 443 HOUSING ACCOMMODATIONS
☐ 444 WELFARE
☐ 440 OTHER CIVIL RIGHTS

PRISONER PETITIONS

☐ 510 MOTIONS TO VACATE SENTENCE 20 USC 2255
☐ 530 HABEAS CORPUS
☐ 535 DEATH PENALTY
☐ 540 MANDAMUS & OTHER
☐ 550 CIVIL RIGHTS
☐ 555 PRISON CONDITION

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ Undetermined OTHER Injunctive

JUDGE _____

DOCKET NUMBER _____

Check YES only if demanded in complaint

JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1322, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] 1 [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES) (Calendar Rule 4(A))

The Children's Place Services Company
915 Secaucus Road
Secaucus, New Jersey 07094
Hudson County

The Children's Place Retail Stores, Inc
915 Secaucus Road
Secaucus, New Jersey 07094
Hudson County

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES) (Calendar Rule 4(A))

Lot Stores, Inc.
1250 South River Road
Cranbury, New Jersey 08512
Middlesex County

The Family Place, Ltd.
1250 South River Road
Cranbury, New Jersey 08512
Middlesex County

Burnside Avenue Lot Stores, Inc.
18 E. Burnside Avenue
Bronx, New York 10453
Bronx County

Castle Hill Lot Stores, Inc.
1301 Castle Hill Avenue
Bronx, New York 10562
Bronx County

Mamaroneck Avenue Lot Stores
120-122 Mamaroneck Avenue
White Plains, New York 10605 - Westchester County

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one:

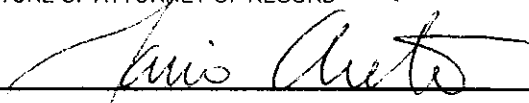
THIS ACTION SHOULD BE ASSIGNED TO:
(DO NOT check either box if this a PRISONER PETITION.)

☐ WHITE PLAINS☒ FOLEY SQUARE

DATE

6/11/07

SIGNATURE OF ATTORNEY OF RECORD



RECEIPT #

ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO☒ YES (DATE ADMITTED Mo. 3 Yr. 87)

Attorney Bar Code # MA 2228

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

James M. Parkison, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

United States District Court

SOUTHERN

DISTRICT OF

NEW YORK

THE CHILDREN'S PLACE RETAIL STORES,
INC. and THE CHILDREN'S PLACE SERVICES
COMPANY, LLC.

Plaintiffs,

V.

THE FAMILY PLACE, LTD., LOT STORES, INC., BURNSIDE
AVENUE LOT STORES, INC., CASTLE HILL LOT STORES,
INC., and MAMARONECK AVENUE LOT STORES, INC.,

Defendants.

SUMMONS IN A CIVIL CASE

CASE NUMBER:

07 CIV 5512

JUDGE CROTTY

TO: (Name and address of defendant)

Lot Stores, Inc.
1250 South River Road
Cranbury, New Jersey 08512
Middlesex County

The Family Place, Ltd.
1250 South River Road
Cranbury, New Jersey 08512
Middlesex County

Burnside Avenue Lot Stores, Inc.
18 E. Burnside Avenue
Bronx, New York 10453
Bronx County

Castle Hill Lot Stores, Inc.
1301 Castle Hill Avenue
Bronx, New York 10562
Bronx County

Mamaroneck Avenue Lot Stores
120-122 Mamaroneck Avenue
White Plains, New York 10605 - Westchester County

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Mario Aieta, Esq.
Betsy C. Judelson Esq.
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nation Plaza
New York, NY 10017
(212) 813-5900

an answer to the complaint which is herewith served upon you, within Twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

JUN 11 2007

CLERK

DATE

Mario Aieta

(BY) DEPUTY CLERK

RETURN OF SERVICE

Service of the Summons and Complaint was made by me ¹	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served: _____
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left: _____
- ☐ Returned unexecuted: _____
- ☐ Other (specify): _____

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL
--------	----------	-------

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JUDGE CROTTY

-----X
THE CHILDREN'S PLACE RETAIL STORES, :
INC. and THE CHILDREN'S PLACE :
SERVICES COMPANY, LLC :

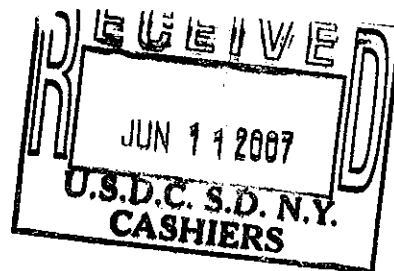
Plaintiffs, :

v. :

THE FAMILY PLACE, LTD., LOT STORES, :
INC., BURNSIDE AVENUE LOT STORES, :
INC., CASTLE HILL LOT STORES, INC., and :
MAMARONECK AVENUE LOT STORES, :
INC. Defendants. :
-----X

07 CIV 5512
Case No. _____

RULE 7.1 STATEMENT



Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure and to enable Judges and Magistrate Judges of the Court to evaluate possible disqualifications or recusal, the undersigned counsel for defendants The Children's Place Retail Stores, Inc. and The Children's Place Services Company, LLC certify that The Children's Place Retail Stores, Inc. is a publicly traded company and that 100% of the stock of The Children's Place Services Company, LLC is owned by Twinbrook Insurance Company, Inc.

Dated: June 11, 2007
New York, New York

Respectfully submitted,
FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: _____

Mario Aieta (MA 2228)

Betsy C. Judelson (BJ 1107)

*Attorneys for Plaintiffs The Children's Place Retail Stores,
Inc. and The Children's Place Services Company, LLC*

866 U.N. Plaza
New York, NY 10017
Tel: (212) 813-5900
Fax: (212) 813-5901